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November 20, 2003

Stressla Lynn Johnson SID #4892247
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914-8335

Re: *Petition for Review of Denial of Fee Waiver:*
Secretary of State Archives Division Records

Dear Mr. Johnson:

This letter is the Attorney General's order on your petition for review of the Secretary of State Archives Division's denial of your request for a waiver of fees under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on November 14, 2003, asks the Attorney General to order that the Archives Division waive its fees for providing certified copies of the records you requested. For the reasons below, we respectfully deny your petition.

By letter dated October 30, 2003, Reference Archivist David Wendell informed you that the required payment for the requested records was $14.50. We have confirmed with Mr. Wendell that he intended his letter to be a denial of the fee waiver that you requested in your letter of October 2, 2003.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. The law also authorizes a public body to establish fees "reasonably calculated to reimburse it for its actual cost in making records available." ORS 192.440(2). In addition, a public body may preliminarily estimate charges for responding to a records request and require prepayment of estimated charges in advance of producing records. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) (AG'S MANUAL) at 14. The Archives Division has adopted an administrative rule regarding fees, which provides for charges for copying and staff time and for certification of copies. OAR 166-010-0016.

The Public Records Law authorizes a public body to waive or reduce fees if the public

body "determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.440(4). Factors relevant to determining whether a waiver of fees would serve the public interest include:

> [T]he requester's identity, the purpose for which the requester intends to use the information, the character of the information, whether the requested information is already in the public domain, and whether the requester can demonstrate the ability to disseminate the information to the public.

AG'S MANUAL at 16. The person requesting the fee waiver has the burden to establish that a waiver would benefit the public interest, and not just his or her personal interests. AG'S MANUAL at 16-17.

Your petition states that the requested records relate to your "criminal case." Your October 2, 2003, letter to the Archives Division states that its fees should be waived "based on the fact that I am incarcerated and with out funds." It also states that making the records available to you "benefits the general public, in that the judicial system[] operates to the good of all citizen[s]," and suggests that the requested records would bear on confirming whether "The Judges are properly affirmed to upholding the Constitution of Oregon and The United States."

The records you requested from the Archives Division are oaths taken by Judge Robert Redding. Your petition states that you are "challenging" Judge Redding in relation to your criminal case, but neither your request to the Archives Division nor your petition to the Attorney General provides any evidence as to why you believe the requested oaths are in any way insufficient or would otherwise have any bearing on the preservation of the judicial system. Moreover, even if the oaths contain information relevant to the public interest, you have not demonstrated an ability to disseminate the information to the public in the manner contemplated by the Public Records Law.

Therefore, we respectfully deny your petition for an order requiring the Archives Division to waive its fee of $14.50 for providing certified copies of the requested records.

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

AGS13226
c: Layne Sawyer, Supervisor of Reference Services, Sec of State Archives Division